SUPREME COURT, U. S.
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In the Supreme Court of the United States

OCTOBER TERM, 1961

No. 512

SCOTT PUBLISHING CO., INC., *Petitioner,*

vs.

COLUMBIA BASIN PUBLISHERS, INC.; HOWARD PARISH AND ASSOCIATES, INC.; HOWARD W. PARISH; JAMES M. BRYCE; KENNEWICK-PASCO TYPOGRAPHICAL UNION NO. 831; UNITYPO, INC.; INTERNATIONAL TYPOGRAPHICAL UNION; WOODRUFF RANDOLPH; DON HURD; WALTER D. MARVICK; CHARLES M. LYON; HAROLD H. CLARK; JOE BAILEY; FRANCIS E. McGLOTHLIN; A. L. WILIE; SEATTLE TYPOGRAPHICAL UNION NO. 202; and ALLIED PRINTING TRADES COUNCIL OF SEATTLE, *Respondents.*

Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

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I. The decision of the court below is in conflict with the decisions of this Court which have held: (1) that the creation and maintenance of a group boycott as found by the trial court is a per se violation of Section 1 of the Sherman Act, and (2) that combinations and conspiracies are not exempted from the antitrust laws because the conspirators were motivated by separate, independent purposes 13

A. The decision of the court below is in direct conflict with Loewe v. Lawlor, 208 U.S. 274 (1908); Duplex Printing Press Co. v. Deering, 254 U.S. 443 (1921); Bedford Cut Stone Co. v. Journeymen Stone Cutters' Ass'n, 274 U.S. 37 (1927); and Klor's Inc. v. Broadway-Hale Stores, Inc., 359 U.S. 207 (1959) 13

B. The decision below is in direct conflict with Allen Bradley Co. v. Local Union No. 3, 325 U.S. 797 (1945) and other leading cases of the Supreme Court 15

II. Although the trial court erroneously concluded that there were no price differences (price discriminations) in the sale of the advertising by respondents, the Court of Appeals improperly construed the trial court's recitation of the statutory language of the Robinson-Patman Act as a finding adverse to the plaintiff on the requisite competitive injury 24

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A. Respondent Columbia Basin Publishers, Inc. discriminated in price in the sale of advertising 24

B. The trial court erroneously found no price discrimination and made no finding of fact concerning the requisite competitive injury..... 24

C. The Court of Appeals' acceptance of the trial court's recitation of the statutory language as a finding of fact on competitive injury is improper.. 25

III. The Court of Appeals' erroneous acceptance of the trial court's recitation of the statutory language of the Robinson-Patman Act as a finding of fact on the requisite competitive injury cannot be justified merely because petitioner continued to be the larger of the two competitors in the market..... 26

A. Petitioner may not be precluded from showing the requisite competitive injury merely because it managed to retain more advertising business than the Columbia Basin News was able to acquire..... 26

B. There was a substantial diversion of business from The Tri-City Herald to the Columbia Basin News as the result of illegal price discrimination..... 27

C. Although there is no indication as to what legal standard, if any, was applied by the trial court and the Court of Appeals with respect to the requisite criterion of competitive injury under the Robinson-Patman Act, the evidence and law establishes a violation regardless of which legal standard is applied..... 28

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Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

Petitioner prays that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit entered in the above-entitled case on June 30, 1961.

CITATIONS TO OPINIONS BELOW

The opinion of the United States Court of Appeals for the Ninth Circuit is reported in 293 F.2d 15 (9th Cir. 1961). A copy of the opinion is attached hereto as Appendix A. The